

	<b>Portales Police Department Standard Operating Procedure &amp; Policy</b>	<b>SOP #</b>	<b>308.01</b>
		<b>Date Revised:</b>	
		<b>PER. #</b>	<b>08.01</b>
1700 N. Boston St. Portales NM, 88130	<b>Grievance Procedure</b>	<b>Effective Date</b>	
(575) 356-4404		<b>Approval:</b>	<b>Pat Gallegos, Chief of Police</b>

## I. Informal Grievances

The purpose of informal grievance procedures is to provide employees, in an atmosphere of courtesy and cooperation, an equitable solution to problems or complaints, which may affect employees in the course of their employment with the city. When applicable, the informal grievance procedure allows employees to voice complaints concerning alleged improper actions of employees, supervisors, or management. The informal grievance procedure does not apply to suspensions, involuntary demotions and terminations. All informal grievances will be handled through the Office of the Chief of Police.

### A. Informal Grievance Procedure

The following steps comprise the informal grievance procedure:

1. Meeting with supervisor.
  - a. The employee is required to contact his supervisor in writing within five (5) calendar days of the incident or action being grieved to discuss the same.
  - b. Within five (5) working days of the completion of the meeting, the supervisor shall provide the employee with a written decision.
2. Meeting with department head.
  - a. The employee may appeal the decision of the supervisor to the department head in writing within three (3) working days of the receipt of the supervisor's written decision.
  - b. The department head shall meet with the employee within five (5) working days of receiving the grievance to discuss the grievance. The department head will provide the employee with a written decision within ten (10) working days of the meeting.

3. Meeting with city manager

- a. Within three (3) working days of receiving the department head's decision the employee may appeal the decision to the city manager.
- b. The employee and one (1) witness of his choice (if desired) and the department head shall meet with the city manager or designee to discuss the grievance within five (5) working days of receipt of the written request by the city manager. Within ten (10) working days of the meeting, the city manager shall advise the employee of his/her decision in writing. The city manager's decision shall be final.

B. Conditions or Actions not grievable

1. The following are not grievable:

- a. Employee complaints of discrimination or harassment based on race, color, religion, sex, sexual orientation, age, national origin, physical or mental disability or serious medical condition. These allegations should be reported directly to the city manager or human resources department in compliance with the city's discrimination and harassment reporting procedures.
- b. Matters where the city is without authority to act or does not have the ability to provide a remedy.
- c. Dismissal of probationary employees prior to the expiration of their probationary period.
- d. Release of temporary or seasonal employees prior to or at the end of their anticipated employment period.
- e. Reassignments, transfers, temporary assignments, removal from temporary assignments, promotions or layoffs.
- f. Performance appraisals, merit recommendations, verbal counseling, or selection for vacant positions.

II. Formal Grievance

The following actions are handled through the formal Grievance process: loss of pay, disciplinary actions which results in suspension through a dismissal or a violation of the member's individual rights as a department employee. All formal grievances will be handled through the Human Resources Department.

A. Procedure for filing and hearing further appeal of suspension or demotion only

1. Upon written notification of suspension or demotion the employee may appeal the decision to the city manager. The appeal of a suspension or demotion must be submitted in writing to the human resources department within ten (10) calendar days of the written notification of the suspension or demotion. The appeal shall be a written statement explaining the reasons for the appeal in detail and setting forth therein the action desired. The city manager may, at his/her discretion, elect to hold a hearing or hear additional evidence as he/she sees fit. The city manager shall render a timely decision and reserves the right to modify the penalty imposed. The decision of the city manager shall be final with no additional appeals permitted.
2. An employee may represent himself in the appeal process or may choose to be represented by another person.

B. Procedure for filing and hearing; further appeal of dismissal only

1. Upon written notification of dismissal, either the employee or the Chief of Police may appeal the decision. If a timely appeal is filed the employee is placed on paid administration leave. The appeal of a dismissal must be submitted in writing to the human resources department within ten (10) calendar days of the written notification of the city manager's ruling of dismissal after a pre-termination meeting. The appeal shall be a written statement explaining the reasons for the appeal in detail and setting forth the action desired.
2. In the appeal of a dismissal, the city manager shall appoint a hearing officer to hear the appeal. The hearing officer must be familiar with public or private personnel systems, or have pertinent experience in the appropriate areas of management or law. The hearing officer cannot be an employee or current elected official of the city.
3. A representative of the human resources department shall schedule the hearing of the appeal within thirty (30) days. The assigned hearing officer will review the recommendation resulting from the pre-termination meeting and hold a full due process hearing. The employee shall be allowed to present his or her case, with or without a lawyer. Upon hearing the appeal as presented by both parties and upon making a record of the hearing, the hearing officer shall transmit a decision in writing to the employee and the department head within twenty-one (21) calendar days of the conclusion of the hearing which will either confirm or reject the

termination action taken by the city manager. The decision of the hearing officer shall be the final administrative action. The hearing officer shall render a timely decision, which will either confirm or reject the termination action taken by the city manager.

4. An employee may represent himself in the appeal process or may choose to be represented by another person.

### III. Failure to follow procedure representation

If the employee fails to abide by any part of the appeal procedure as outlined above, the employee shall be conclusively deemed to have waived and abandoned the appeal. Time limits may be extended only by the mutual, written consent of the employee and the human resources department.

If the employee or the employee's representative fails to appear at the appeal hearing or fails to submit written statements in lieu of appearance, the employee shall be conclusively deemed to have waived and abandoned the appeal.

### IV. Notice of meeting for suspensions, demotions and dismissals

If the employee is not readily available for personal delivery of the notice of the meeting or at the work site, the notice of the meeting shall be mailed via certified mail to the employee at the last known address in the employee's personnel file

### V. Grievance Form

All grievances initiated shall be in written form and shall contain, at a minimum, the following:

- A. A statement of the grievance and the facts upon which it is based.
- B. The wrongful act and/or harm done which precipitated the grievance.
- C. The remedy or adjustment sought by the aggrieved employee.

### VI. Maintenance of Grievance Records

All grievance records will be maintained and controlled by the Human Resource Department.